

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
VAC.331.1

First named inventor: Richard Vogel

Application No.: 09/458,280

Group Art Unit: 3736

Filed: December 10, 1999

Examiner: DeMille, Danton

Title:
THERAPEUTIC APPARATUS FOR TREATING ULCERSAttention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee —required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$\$1,280 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of Response & Amendment (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$_____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

6-7-2002

Date

Eric W. Cernyar

Signature

Telephone

Number: (210) 863-0063

Eric W. Cernyar

Typed or printed name

Kinetic Concepts, Inc., P.O. Box 659508

Address

San Antonio, TX 78265-9508

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Revocation & New Power of Atty, Change Corr. Address

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

6-7-2002

Date

Eric W. Cernyar

Signature

Eric W. Cernyar

Type or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number

09/458,280

Filing Date

05/27/2002

First Named Inventor

Vogel et al.

Group Art Unit

3736

Examiner Name

DeMille

Total Number of Pages in This Submission

30

Attorney Docket Number

VAC.331.1

ENCLOSURES (check all that apply)

Fee Transmittal Form



Fee Attached



Amendment / Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



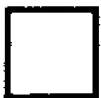
Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Response to Missing Parts/
Incomplete ApplicationResponse to Missing Parts
under 37 CFR 1.52 or 1.53Assignment Papers
(for an Application)

Drawing(s)



Licensing-related Papers



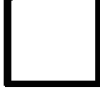
Petition

Petition to Convert to a
Provisional ApplicationPower of Attorney, Revocation
Change of Correspondence
Address

Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

After Allowance Communication
to GroupAppeal Communication to Board
of Appeals and InterferencesAppeal Communication to Group
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please
identify below):

37 CFR 3.73(b) statement

Statement regarding unintentional delay

return postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENTFirm
or
Individual name

Eric W. Cernyar

Signature

Eric W. Cernyar

Date

6-7-2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 6-7-2002

Typed or printed name

Eric W. Cernyar

Signature

Eric W. Cernyar

Date

6-7-2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

Complete if Known

Application Number	09/458,280
Filing Date	12/10/1999
First Named Inventor	Vogel
Examiner Name	DeMille
Group Art Unit	3736
Attorney Docket No.	VAC.331.1

TOTAL AMOUNT OF PAYMENT (\$ 1280.00

METHOD OF PAYMENT

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 500-326

Deposit Account Name Kinetic Concepts, Inc.

- ☒
- Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

- 2.
- ☐
- Payment Enclosed:

☐ Check ☐ Credit card ☐ Money Order ☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid		
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	1280.00
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 1280.00

SUBMITTED BY

Name (Print/Type) Eric W. Cernyar

Registration No. 45919
(Attorney/Agent)

Complete (if applicable)

Telephone (210) 863-0063

Signature

Eric W. Cernyar

Date

6-7-2002

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Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



June 7, 2002

Box DAC
Assistant Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

Re: United States Patent Application
Serial No.: 09/458,280
Entitled: THERAPEUTIC APPARATUS FOR TREATING ULCERS
Date Filed: December 10, 1999
Our Reference No.: VAC.331.1


Dear Sir or Madam:

Enclosed for filing are the following documents:

1. This Transmittal Letter
2. Transmittal Form (w/ certificate of mailing thereon)
3. Fee Transmittal Form (in duplicate)
4. Fee Determination Record (for newly added claims)
5. Petition for Revival of an Application as Unintentionally Abandoned
6. Statement Regarding Unintentional Delay
7. Response to October 4, 2000, Office Action
8. Revocation of Power of Attorney
9. New Power of Attorney
10. Change of Correspondence Address
11. 37 CFR § 3.73(b) statement
12. Assignment Documents
13. Acknowledgement post card

The Commissioner is requested to grant Applicants' Petition to Revive and to pass the application to issue. The Commissioner is hereby authorized to charge any additional fees that may be required to Kinetic Concepts' Deposit Account No. 500326.

Respectfully submitted,


Eric W. Cernyar
Reg. No. 45,919
(210) 863-0063 (mobile)

Enclosures

*Ok
11-7-02
S. Peters
S*